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January 3, 2022

Via ECF

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Hon. Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *NEBC v. Allianz Global Investors U.S. LLC et al.*, No. 20 Civ. 07606

Dear Judge Failla,

In connection with NEBC's pre-conference letter in opposition filed on January 3, 2022, NEBC respectfully requests leave to file certain exhibits under seal pursuant to Section IX of the Stipulated Second Amended Protective Order (the "Protective Order," Dkt. 115) and Rule 9 of the Court's Individual Rules of Practice in Civil Cases. Specifically, NEBC seeks to file under seal the following exhibit:

Exhibit 1: Document produced by NEBC with Bates number NEBC0019286, which NEBC has designated "Confidential."

Exhibit 1 includes material that has been designated "Confidential" under the Protective Order. The Protective Order permits the parties to designate certain categories of sensitive information produced in the course of discovery as "Confidential" or "Highly Confidential," with all such material referred to collectively as "Protected Material." Protective Order § IV. The Protective Order requires that "[a] Party or Non-Party submitting any Protected Material to the Court in the Related Actions (whether in support of a pleading or motion, at a hearing, or in connection with any other pre-trial proceeding) must file the Protected Material in redacted form or under seal to the full extent permitted by the Local Rules of the U.S. District Court for the Southern District of New York and Judge Failla's Individual Practices in Civil Cases." *Id.* § IX.A.

The weight of the presumption that documents will be publicly filed is "not particularly great" where, as here, "[t]he documents are not to be submitted in connection with a dispositive motion, but merely a motion to compel further discovery from a party." *Alexander Interactive, Inc. v. Adorama, Inc.*, 2014 WL 4346174, at *2 (S.D.N.Y. Sept. 2, 2014). In addition, Exhibit 1 is a document that NEBC has produced and designated "Confidential" because it contains sensitive, non-public information regarding NEBC's organization and operation. *Cf. City of Almaty, Kazakhstan v. Ablyazov*, 2021 WL 1177737, at *1 (S.D.N.Y. Mar. 29, 2021) (granting motion to seal documents relating to company's "internal strategic discussions").

Accordingly, NEBC requests leave to file Exhibit 1 under seal.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'S. Gallagher', with a long horizontal flourish extending to the right.

Sean W. Gallagher

*Counsel for Plaintiff Blue Cross and
Blue Shield Association National
Employee Benefits Committee*

cc: Counsel of record on ECF

Application GRANTED. The above-specified exhibit associated with Plaintiff's submission shall be permitted to be filed under seal, viewable only to the parties and the Court. The Clerk of Court is directed to terminate the pending motion at docket entry 137.

Date: January 4, 2022
New York, New York

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Katherine Polk Failla', written in a cursive style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE